REMARKS

Claims 43-49 are pending in the present application. Claims 20, 22-28, 31, 33, 36, 41, and 42 have been canceled without acquiescence and without prejudice. Applicants retain the right to file a continuation application on any canceled subject matter. Support for the claim amendments and new claims 48 and 49 can be found throughout the specification, more specifically on pages 1, lines 15-17. Applicants assert that no new matter has been added.

The issues outstanding in this application are as follows:

- Claims 20-26, 29-31, 33, 36, 42-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kellogg et al (US 6,143, 248) in view of Burns et al. (US 6,379,929);

- Claims 27-28 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kellogg et al., in view of Sheppard, Jr. et al., (US 6,142,247).

Applicants respectfully traverse the outstanding rejections, and Applicants respectfully request reconsideration and withdrawal thereof in light of the amendments and remarks contained herein.

I. 35 U.S.C. § 103(a)

A. Claim 20, 22-26, 31, 33, 36, and 42-47

Claims 20, 22-26, 31, 33, 36, and 42-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kellogg et al. in view of Burns et al. Applicants respectfully traverse.

In order to advance the prosecution of the present invention, Applicants have canceled claims 20, 22-26, 31, 33, 36, and 42 and amended claim 43 without prejudice and without acquiescence.

Amended independent claim 43 requires that the inlet is capable of handling less than about 500 nl of a liquid sample which. This subject matter is not mentioned or suggested by Kellogg et al. Nowhere in Kellogg et al. that the Applicants can identify, is there any suggestion of an inlet capable of handling about 500 nl of a liquid sample. In fact, as discussed with the Examiners, the inlet of the Kellogg et al. device cannot handle volumes of less than 1μl. If the Examiner continues to maintain the above reference as the basis for this rejection, the Examiner is requested to make of record the passage relied upon, or state for the record that no such teaching can be found. *See, In re Gartside*, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000).

In view of this amendment, Applicants assert that Kellogg et al. is no longer applicable as a reference. With the removal of Kellogg et al. as a prior art reference, the remaining reference is Burns et al., which does not teach or suggest all the limitations of independent claim 43.

Since neither Kellogg et al. or Burns et al., either separately or in combination, teach or suggest all the limitations of independent claim 43, Applicants assert that claim 43 and dependent claims 44-47 are non-obvious. *See In re Fine*, 5 USPQ 2d 2596 (Fed. Cir. 1988).

Thus, in view of the amendments contained herein, Applicants respectfully request withdrawal of the § 103(a) obviousness rejection.

B. Claims 27-28 and 41

Claims 27-28 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kellogg et al., in view of Sheppard, Jr. et al., (US 6,142,247). Applicants respectfully traverse.

In order to advance prosecution of the present application, Applicants have canceled claims 27-28 and 41 without prejudice and without acquiescence. Thus, in view of this amendment, Applicants assert that this rejection is now moot and request that it be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. 10104200 from which the undersigned is authorized to draw.

Dated: February 22, 2005

Respectfully submitted,

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